

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Telefónica Larga Distancia	)	
de Puerto Rico, Inc.	)	WC Docket No. 06-01
	)	
Petition for Expedited Declaratory Ruling	)	
Regarding Section 253 of the	)	
Communications Act of 1934	)	

**COMMENTS OF  
SPRINT NEXTEL CORPORATION**

Sprint Nextel Corporation (“Sprint”), pursuant to the *Public Notice* released on January 6, 2006 (DA 06-32), hereby respectfully submits its comments on the petition for an expedited declaratory ruling filed by Telefónica Larga Distancia de Puerto Rico, Inc. (“TLD”) in the above-captioned proceeding. TLD asks the Commission to find that the proposed "Single Zone Plan" tariff filed by the Puerto Rico Telephone Company (“PRTC”) with the Junta Reglamentadora de Telecomunicaciones de Puerto Rico ("Puerto Rico Board") violates section 253(a) of the Communications Act of 1934, as amended (“the Act”). It also requests that the Commission preempt approval by the Puerto Rico Board under section 253(d) of the Act. Sprint firmly believes that TLD’s petition should be granted and in support thereof, states as follows:

PRTC is proposing to expand local calling area service to both business and residential customers pursuant to its Single Zone Plan. For residential customers, this plan is a bundled offering which includes calling throughout Puerto Rico for either (a) a flat rate of \$26.45 for unlimited intra-island calling (“Flat Rate Service”), or (b) a

measured rate service with a monthly recurring charge of \$16.95 for 100 minutes of intra-island calling with additional minutes rated at \$0.03 per minute (“Measured Rate Service”). *See* Puerto Rico Telephone Company, Inc., Local Tariff, Section 15.2.1, Third Revision – Page 15-1. For business customers, the bundled offering for \$39.95 includes 300 minutes of intra-island calling with additional minutes rated at \$0.03 per minute. *Id.*, Section 15.2.2, Third Revision – Page E-15-2. The effective date of the offering has been extended from January 6, 2006 to April 7, 2006.

In conjunction with the establishment of the Single Zone Plan, or perhaps because of it, PRTC will “automatically transfer” all of its local residential customers to one of two rate offerings upon the tariff’s effectiveness. *Id.*, Section 15.2.1., Revision – Page E-15-2. Customers currently subscribed to PRTC’s “Flat Rate” service in Local Exchange Service Areas with over 5,001 Main Stations “will be automatically transferred” to the proposed Flat Rate Service which includes unlimited calls; and customers in Local Exchange Service Areas with 201 to 5,000 Main Stations and customers subscribed to Measured Service in all Local Exchange Areas “will be automatically transferred” to the proposed Measured Rate Service. *Id.*

In its Petition, TLD explains – and Sprint agrees – that competition for Puerto Rico intrastate calling will be eliminated if PRTC's proposed tariff revisions are permitted to become effective. If all residential customers have no choice but to subscribe to a Single Zone Plan in order to have local telephone service, they will have either unlimited or some specified amount of long distance intrastate calling. Customers will therefore have no reason to use another long distance carrier for intrastate calling.

Upon the plan's implementation, even if customers want to be presubscribed to a carrier other than PRTC for their intra-Puerto Rico long distance calling, they would not have the choice to do so for two reasons. First, PRTC will eliminate 1+ dialing for such calls. All intrastate calls will be placed using only ten digits (*e.g.*, NPA-NXX-XXXX). Second, PRTC will discontinue its offering of intrastate access service. PRTC's President and CEO stated in a letter to the Puerto Rico Board that "the Single Zone Plan eliminates ... intransland access charges..."<sup>1</sup>

The elimination of intra-island competition that would result if PRTC's Single Zone Plan were sanctioned by the Puerto Rico regulator would violate Section 253(a) of the Act. Under that provision, "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." Indeed, as TLD points out, "[a]pproval of the Single Zone Plan by the Puerto Rico Board could not more cleanly fit into the category of action prohibited by Section 253(a)." Petition at 14. Therefore, approval by the Puerto Rico regulator would "directly conflict with the Congressional mandate of the 1996 Act." *Id.* at 15. The Commission should act now pursuant to its authority under 253(d) to preempt the Puerto Rico regulator from authorizing the still pending provisions of PRTC's Single Zone Plan so as to prevent these anti-competitive results.<sup>2</sup>

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<sup>1</sup> Letter dated April 5, 2005, from Cristina Lambert, President and CEO, Puerto Rico Telephone, to the President and Associate Members of the Telecommunications Regulatory Board of Puerto Rico, p. 3.

<sup>2</sup> It is Sprint's understanding that PRTC's Single Zone Plan, which would eliminate competition in the intra-island long distance toll market, has not yet been approved by the Puerto Rico Board and there is the possibility that the regulator will not sanction such an

Yet another problem with PRTC's Single Zone Plan involves the automatic transfer of its local residential customers to one of its options. Such a transfer along with the elimination of "1+" dialing capability necessarily means that customers presubscribed to Sprint and other IXC's for intra-island toll service will be transferred to PRTC without verification in violation of the Section 258 of the Act and the Commission's rules issued thereunder. Stated differently, Sprint's customers -- as well as those of other IXC's -- will be slammed, because by employing an automatic transfer, PRTC will not have obtained the subscriber's authorization to have PRTC provide their intra-island toll services.

PRTC currently has an optional bundled offering which includes unlimited intra-island calling. This offering, which affords PRTC the ability to compete with other carriers' unlimited pricing plans, does not suffer from the anti-competitive effects of the Single Zone Plan discussed above. Optional bundles that are offered in conjunction with standard local service offerings are consistent with the pro-competitive goals of the Act.

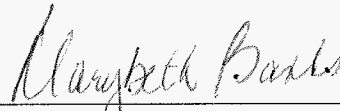
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anti-competitive offering. Nonetheless, Sprint believes that the Commission must act now because if the regulator approves the plan, PRTC can implement it immediately pursuant to Puerto Rican regulations permitting the filing of tariffs on one day's notice. If the Commission waits until the Puerto Rico Board acts, it may well be too late because all customers currently presubscribed to Sprint and other IXC's will have already been switched without their consent to PRTC. And given the fact that PRTC will as part of the plan eliminate "1+" intra-island dialing, there would be no way for any IXC to regain such customers should they complain of being slammed despite the requirement under the FCC's rules that customers who complain of being slammed are to be switched back to their previous carrier.

Thus, Sprint urges the Commission to issue an expedited declaratory ruling as requested by TLD and find that PRTC's proposed Single Zone Plan violates sections 253(a) and 258 of the Communications Act of 1934.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

A handwritten signature in cursive script, appearing to read "Marybeth Banks", is written over a horizontal line.

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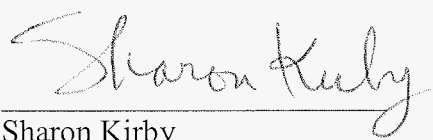
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January 26, 2006

## CERTIFICATE OF SERVICE

I hereby certify that, on this 26th day of January, 2006, copies of the Comments of Sprint Nextel Corporation in WC Docket No. 06-1 were sent by e-mail or First Class Mail, postage prepaid, to the parties listed below.



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